IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 24977 of 2004

Between:

The Kirlampudi Sugar Mills Ltd., Pithapuram, E.G.District rep., by its M.D. Mr.C.Raghuram

..... PETITIONER

AND

1 The Deputy Commercial Tax Officer, Pithapuram,

E.G.District.
2 The Commercial Tax Officer, Tuni, E.G.District.
3 The Deputy Commissioner, Commercial Taxes

Department, Near S.R.M.T.Workshop, Main Road,

Kakinada, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction,

more particularly one in the nature of writ of mandamus declaring the impugned notice dated 26-11-2004 issued by the 1st respondent in Form No.7 under the Revenue Recovery Act, as unjustified, illegal and uncalled for in the facts and circumstances of the case and pass such other order or orders

Counsel for the Petitioner:MR.B.SRINIVAS

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following :

O R D E R (Per MHSA,J)

Having heard learned counsel for respective parties, we are inclined to dispose of the instant writ petition with certain appropriate

directions.

2. Petitioner has questioned the Form No.7 notice issued under the Revenue Recovery Act, whereby the tax arrears in the sum of Rs.9,19,542/- are sought to be recovered by auction of certain property of the petitioner (being guest house). The said amount represents the arrears for the years 1994-95 and 2004-2005.

3. The liability is not disputed by the petitioner. It is however the case of the petitioner that the payment could not be made for reasons beyond the control of the petitioner. The unit of the petitioner is running at a loss and has faced certain other problem like lockout. Petitioner is seeking to revive the unit and has no intention to avoid payment of tax. Petitioner sought facility to pay the tax in phased manner and also filed a petition before the 3rd respondent and the said petition has been rejected on 23.12.2004.

4. In such view of the matter instant writ petition is being disposed of with directions as under:

“If the petitioner deposits Rs.2,00,000/- (Rupees two lakhs only) on or before 20.1.2005, the auction scheduled on that day shall stand postponed.

A further sum of Rs.2,50,000/- (Rupees two lakhs fifty thousand only) shall be paid towards the tax within four weeks reckoned from 20.1.2005.

A further sum of Rs.1,10,000/- (Rupees one lakh ten thousand only) shall be paid within four weeks thereafter.

Balance amount towards tax and interest shall be paid within four

weeks thereafter.

It is hereby clarified that in case the petitioner delays or commits default in making any payments within the time stipulated above, it shall be open to the respondent – Sales Tax authorities to effect recovery in accordance with law."

5. No order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS

DATE:18.01.2005

NOTE:

Operative portion of the

order to be communicated by

wire at party's cost.

B/O

To.

1 The Deputy Commercial Tax Officer, Pithapuram,

E.G.District.
2 The Commercial Tax Officer, Tuni, E.G.District.
3 The Deputy Commissioner, Commercial Taxes

Department, Near S.R.M.T.Workshop, Main Road,

Kakinada, E.G.District.

4. Two C.Cs. to G.P. for Commercial Taxes, A.P. High Court Buildings, Hyderabad.

5. Two C.D. copies.